

AMENDED IN SENATE SEPTEMBER 1, 2009

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CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1405

Introduced by Assembly Members De Leon and V. Manuel Perez
(Coauthors: Assembly Members Arambula, Caballero, Carter,
Coto, Fuentes, Hernandez, Mendoza, Salas, Saldana, and Solorio)
(Coauthor: Senator Romero Coauthors: Senators Pavley, Price, and
Romero)

February 27, 2009

An act to add Section 38597.4 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1405, as amended, De Leon. California Global Warming Solutions Act of 2006: Community Benefits Fund.

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of emissions of greenhouse gases and to monitor and enforce compliance with the reporting and verification program, and requires the state board to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990

to be achieved by 2020. The act requires the state board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions. The act authorizes the state board to include the use of market-based compliance mechanisms. The act authorizes the state board to adopt a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to the act, and requires the revenues collected pursuant to that fee to be deposited into the Air Pollution Control Fund and be available, upon appropriation by the Legislature, for purposes of carrying out the act.

This bill would establish the Community Benefits Fund, and would require a minimum of 30% of revenues generated pursuant to the act, including the fee discussed above, *other than revenues collected for administrative purposes*, to be deposited into that fund. The moneys in the fund would be used, upon appropriation by the Legislature, in the most impacted and disadvantaged communities in California to accelerate greenhouse gas emission reductions or mitigate direct health impacts of climate change in those communities. The state board would be required to develop a methodology to identify the most impacted and disadvantaged communities. The state board, ~~the State Energy Resources Conservation and Development Commission, and the State Department of Public Health~~ *would be required to prepare a report by June 30, 2011, that describes how this bill will be implemented. The bill would require the report to provide for the formation of an independent panel to review, evaluate, and recommend approval of projects and programs solicited for funding. The state board would also be required to jointly develop and adopt biennial plans for the use of funds.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. It is the intent of the Legislature that investments*
2 *made pursuant to this act shall include, to the greatest extent*
3 *possible, green collar employment opportunities for low-income*
4 *residents of the targeted communities.*

5 ~~SECTION 1.~~

6 *SEC. 2. Section 38597.4 is added to the Health and Safety*
7 *Code, to read:*

38597.4. (a) There is hereby established in the State Treasury the Community Benefits Fund. A minimum of 30 percent of the ~~total remaining~~ revenues generated each year pursuant to this division, including, but not limited to, Section 38597, *other than revenues collected for administrative purposes*, shall be deposited by the state board into the Community Benefits Fund. The moneys in the fund shall be used, upon appropriation by the Legislature, for the purposes described in subdivision (b).

(b) (1) Funds appropriated by the Legislature from the Community Benefits Fund shall be used solely in the most impacted and disadvantaged communities in California to accelerate greenhouse gas emission reductions or mitigate direct health impacts of climate change in those communities. Funds appropriated shall be used to provide competitive grants for projects *that reduce greenhouse gas emissions*, including, but not limited to, any projects that do any of the following:

~~(A) Reduce greenhouse gas emissions, while achieving cobenefits such as reductions in other air pollutants, diversification of clean energy sources, and improving energy efficiency.~~

~~(B) Minimize health impacts caused by climate change.~~

~~(C) Assist small businesses to reduce their greenhouse gas emissions.~~

~~(D) Reduce greenhouse gas emissions by the installation or replacement of equipment.~~

~~(E) Improvements to mass transit that reduce greenhouse gas emissions, including, but not limited to, subsidies to commuters.~~

~~(F) Clean distributed electricity generation systems that reduce greenhouse gas emissions.~~

~~(G) Energy efficiency upgrades for schools, senior centers, or low-income housing that reduce greenhouse gas emissions.~~

~~(H) Emergency preparedness for extreme weather events caused by climate change.~~

(A) Reduce greenhouse gas emissions, while achieving cobenefits such as reductions in air pollution.

(B) Increase water and energy efficiency and conservation through retrofitting, replacing, or weatherizing activities.

(C) Install clean distributed generation systems that utilize locally available renewable energy sources such as solar, wind, and geothermal energy.

1 (D) Initiate or enhance public mass transit, including fare
2 subsidies to commuters.

3 (E) Incentive low-income, public mass transit-oriented housing
4 development.

5 (F) Minimize the direct health impacts of climate change and
6 prepare for emergencies from extreme weather events by taking
7 actions such as the operation of air-conditioned cooling centers
8 that are open to the public.

9 (G) Provide community-based greening, forestry, or
10 water-related projects, such as stormwater capture, tree planting,
11 and water conservation and efficiency measures that have been
12 recognized to reduce greenhouse gas emissions and produce
13 cobenefits.

14 (2) The state board shall, before June 30, 2010, adopt a
15 methodology to identify the most impacted and disadvantaged
16 communities, meeting all of the following requirements:

17 (A) The methodology shall identify, through a peer review and
18 public process, the most impacted and disadvantaged communities
19 as those areas within each air basin with the highest 10 percent of
20 air pollution impacts, taking into account air pollution exposure
21 and socioeconomic indicators.

22 (B) The state board shall limit its analysis to a consideration of
23 only socioeconomic indicators for any air basin where variations
24 of air pollution exposure within the air basin cannot be determined.

25 (C) The air pollution exposure indicators to be considered shall
26 include, but not be limited to, criteria and toxic pollutant levels,
27 proximity to sources, and land use, to the extent data is readily
28 available.

29 (D) The socioeconomic indicators to be considered shall include,
30 but not be limited to, income and poverty level, educational
31 attainment, linguistic isolation, and vulnerability to air pollution
32 impacts, to the extent data is readily available.

33 (E) The methodology shall be reviewed and updated as
34 necessary through a peer review and public process along with the
35 update of the scoping plan required by subdivision (h) of Section
36 38561.

37 ~~(3) (A) The state board, the State Energy Resources~~
38 ~~Conservation and Development Commission, and the State~~
39 ~~Department of Public Health shall jointly develop and adopt~~
40 ~~biennial plans for the use of funds under this section.~~

1 (3) (A) *Before June 30, 2011, the state board, in an open public*
2 *process, shall develop and adopt a report that describes the support*
3 *structure and framework for the implementation of this section,*
4 *the types of projects and programs to be funded under this section,*
5 *the selection and oversight process for the projects and programs*
6 *to be funded under this section, and the eligibility criteria for the*
7 *projects and programs to be funded under this section. The state*
8 *board, in its discretion, may consult with other agencies in*
9 *developing the report. The report shall also provide for the*
10 *formation and structure of an independent panel to review,*
11 *evaluate, and recommend approval of the programs and projects*
12 *solicited for funding and the biennial plans required by*
13 *subparagraph (B).*

14 (B) *Before December 30, 2011, and every two years thereafter,*
15 *the state board, in an open public process, shall develop and adopt*
16 *biennial plans describing the specific type of programs and projects*
17 *to be solicited for funding during the two-year period.*

18 ~~(B)~~

19 (C) The environmental justice advisory committee convened
20 pursuant to subdivision (a) of Section 38591 shall be consulted in
21 developing the biennial plans pursuant to subparagraph ~~(A)~~ (B),
22 including in the development of draft plans. Draft plans shall be
23 submitted to the environmental justice advisory committee, and
24 the committee shall make recommendations on those draft plans,
25 that shall be considered prior to the adoption of the biennial plans
26 pursuant to subparagraph ~~(A)~~ (B).

27 (4) Notwithstanding any other provision of this section, projects
28 shall only be funded if the state board determines, based on the
29 facts available to it, that the use of moneys for that project would
30 be consistent with Article XIII A of the California Constitution
31 and case law construing that provision. The state board shall ensure
32 in this regard that no feepayer pays for a disproportionate share of
33 the climate change harm addressed by this section.

34 (c) Costs incurred to implement the requirements of this section
35 may be recovered under the fee authority described in Section
36 38597.